



Via E-mail

Bob Fletcher
Division Chief
Stationary Source Division
California Air Resources Board
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Re: *Valero Energy Corporation Comments for Draft Low Carbon Fuel Standard (LCFS) Regulations*

Dear Mr. Fletcher:

Valero Energy Corporation (Valero) is providing to the California Air Resources Board (CARB) its comments relative to CARB's Draft LCFS Regulations (December 2, 2008 workshop). Valero owns and operates through its subsidiaries the Valero Benicia and Valero Wilmington Refineries. Statewide Valero produces approximately 17% of the clean-burning transportation fuels for California.

Concerning Section 95422. Standards: Valero continues to reserve comment on the standards compliance schedules and the feasibility of such schedules until CARB has completed its Life Cycle Analysis (LCA) of alternative fuels.

Concerning Section 95424. Compliance: Valero is supportive of the current form of the Draft LCFS regulations concerning the transfer of compliance obligation for gasoline 95424(a)(1), diesel fuel 95424(a)(2) and blends of liquid alternative fuels and gasoline or diesel fuel 95424(a)(4). Valero believed that this structure should also be applied to liquid alternative fuels not blended with gasoline or diesel fuel 95424(a)(3). Parties that import or produce E100 and B100 may or may not have title to that fuel at the final distribution facility. Thus, the importer or producer may not know if the fuel is sold neat or blended with gasoline or diesel. Therefore, to not disrupt the current fungible fuel market, Valero recommends treating pure alternative fuels in a manner similar to other liquid fuels where the LCFS obligation would automatically move with title of the fuel until the fuel is at the final distribution facility.

Valero recommends that the language for these sections be modified so that the seller can retain the LCFS compliance obligation at the seller's option without requiring a contract between both parties. Requiring a contract has the effect of making the option a mutual one.

Valero has several recommendations for section 95424(b) Determining Compliance. As stated in our previous comments, if a deficit is allowed, running a deficit should not be referred to being "not compliant" as in section 94524(b)(2)(C). Valero recommends that like the U.S. EPA

RFS regulations that the allowable credit deficit should not be limited to 10%. A 20% cap on usage of previous years credits to meet the current year obligation (including any deficit carryover) is a superior means to ensure a workable regulation and a functioning credit market. Also, since obligated parties will not know for sure their exact credit position until after the year has ended, there will be a delay in the market availability of credits. Therefore, to account for this delay and to ease implementation of the program, Valero recommends that the consecutive year deficit prohibition in section 95414(b)(2)(E) not begin until 2013 (an obligated party could not run a deficit in 2013 if they had one in 2012).

Valero recommends that the language of section 95424(d)(2) Evidence of Physical Pathway be modified. The transportation fuels markets are fungible which lowers costs to the ultimate consumer. Valero is concerned that the language of this section could disrupt the fungible nature of the transportation fuels market, raise costs, be impractical to comply with, and result in shuffling and raising CO2 emissions. The phrases "accurately and completely account for the fuel's movement" and "account for at least 95 percent of the fuel that reaches California" imply that the regulated party must physically track the individual shipments which is not possible in a fungible system.

Concerning Section 95425. LCFS Credits and Deficits: Valero supports a 20% rollover cap on prior year credit use. The cap should apply to the total of an obligated parties current year obligation plus any prior year deficit. The cap will provide an incentive for parties that have a large excess of credits to sell them in the credit market. In addition, the cap is a superior means of limiting a party's deficit rather than using an arbitrary and rigid 10% deficit cap as proposed in the current regulations. This would also make the LCFS regulations consistent with the U.S. EPA RFS regulations.

In submitting these comments, Valero incorporates by reference all of its previous correspondences and comments to CARB, verbal and written, concerning AB 32, LCFS, and the AB 32 Scoping Plan. In addition, Valero supports and adopts as its own the written correspondences and comments submitted by WSPA to CARB. Valero reserves the right to supplement these comments, its previous comments, as well as provide future comments during the AB 32 Scoping Plan and LCFS rulemaking processes.

If you have any questions or wish to discuss this further, please contact me at (210) 345-2922 or by E-mail at John.Braeutigam@Valero.com or Scott Folwarkow at (916) 503-1639 or by E-mail at Scott.Folwarkow@Valero.com.

Sincerely,



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